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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) No.1149 of 2021

and

C.M.P. (MD) No.6707 of 2021

A.David

...Revision Petitioner/Respondent/Defendant

Vs.

Jebamalai

...Respondent/Petitioner/Plaintiff

PRAYER: Civil Revision Petition under Article 227 of Constitution of India, to call for the records pertaining to the fair and decreetal order, dated 24.02.2021 passed in I.A.No.03 of 2019 in O.S.No.133 of 2016 on the file of the learned First Additional District Judge (PCR), Tiruchirappalli District, and to set aside the same.

For Petitioner	:Mr.Niranjana S.Kumar
For Respondent	:Mr.C.Vakeeswaran

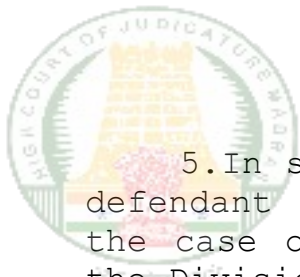
ORDER

This Civil Revision Petition has been filed by the petitioner to set aside the order, dated 24.02.2021 in I.A.No.03 of 2019 in O.S.No.133 of 2016 passed by the learned First Additional District Judge (PCR), Tiruchirappalli District.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The plaintiff has filed a petition in I.A.No.3 of 2019 in O.S.No.133 of 2010, under Order 26 Rule 13 and Section 151 of Civil Procedure Code, for passing final decree on the basis of preliminary decree, dated 20.08.2019 passed in O.S.No.133 of 2016. The said petition was allowed on 24.02.2021. Against the said order, the defendant is before this Court.

4.Already, the revision petitioner/defendant has preferred an appeal suit against the preliminary decree and the same is pending before this Court. Now, the defendant has filed this Civil Revision Petition on the ground that since the suit property is an agricultural land the preliminary decree is to be referred to the District Court for division of the property.



5. In support of his case, the learned counsel appearing for the defendant relied upon the Judgment reported in **2021(4)MLJ 260**, in the case of **K.Jaya @ Jayalakshmi Vs. Padma @ Padmavathi**, in which the Division Bench of this Court held as follows:

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"31. In the result, the reference is answered as follows:

If a suit is filed for partition in respect of Estate as defined in the Tamil Nadu Estate land Act, 1908 or under any other Estate Laws which are mentioned under Section 7 of the Tamil Nadu Court Fee and Valuation Act as stood before the amendment by Act of 2017, the civil court after passing the decree declaring the rights of the parties interested in the property shall send the said decree to the Collector as per Order 20 Rule 18(1) of CPC to divide the property by following the provisions of Sections 54 of CPC. Where a suit is filed in respect of ryotwari land and other immovable properties or movable properties, the court by following the procedures prescribed under Order 20 Rule 18(2) has to pass preliminary decree and thereafter pass final decree."

6. Now, appeal suit is pending before this Court to decide the preliminary decree. Whether both the parties are entitled for share? and Whether the land is an estate or private property? are to be decided by the appellate Court.

7. With these observations, this Civil Revision Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To
The I Additional District Judge (PCR),
Tiruchirappalli District.

+1 CC to M/s.C.VAKEESWARAN, Advocate (SR-13825[F] dated 23/03/2022)

+1 CC to M/s.NIRANJAN S KUMAR, Advocate (SR-13946[F] dated
23/03/2022)

Order made in
C.R.P. (MD) No.1149 of 2021
23.03.2022

ks (CO)
TR(20.04.2022) 3P 4C